



General Assembly

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Amendment

LCO No. 4721

SB0039204721SD0

Offered by:

SEN. LEBEAU, 3rd Dist.
REP. BERGER, 73rd Dist.
REP. GENTILE, 104th Dist.
REP. MAZUREK, 80th Dist.
REP. STONE, 9th Dist.
SEN. DEBICELLA, 21st Dist.
REP. STRIPP, 135th Dist.

REP. WILLIAMS, 68th Dist.
SEN. CALIGIURI, 16th Dist.
SEN. HARTLEY, 15th Dist.
REP. ALDARONDO, 75th Dist.
REP. D'AMELIO, 71st Dist.
REP. NOUJAIM, 74th Dist.

To: Subst. Senate Bill No. 392

File No. 644

Cal. No. 427

"AN ACT EXTENDING FINANCING FOR INFORMATION TECHNOLOGY AND REMEDIATION PROJECTS, AND MAKING A TECHNICAL CORRECTION."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Section 32-9kk of the 2008 supplement to the general
4 statutes is repealed and the following is substituted in lieu thereof
5 (*Effective July 1, 2008*):

6 (a) As used in subsections (b) to [(i)] (k), inclusive, of this section:

7 (1) "Brownfield" means any abandoned or underutilized site where
8 redevelopment and reuse has not occurred due to the presence or

9 potential presence of pollution in the buildings, soil or groundwater
10 that requires remediation before or in conjunction with the restoration,
11 redevelopment and reuse of the property;

12 (2) "Commissioner" means the Commissioner of Economic and
13 Community Development;

14 (3) "Department" means the Department of Economic and
15 Community Development;

16 (4) "Eligible applicant" means any municipality, a for-profit or
17 nonprofit organization or entity, a local or regional economic
18 development entity acting on behalf of a municipality or any
19 combination thereof;

20 (5) "Financial assistance" means grants, extensions of credit, loans or
21 loan guarantees, participation interests in loans made to eligible
22 applicants by the Connecticut Development Authority or combinations
23 thereof;

24 (6) "Municipality" means a town, city, consolidated town and city or
25 consolidated town and borough;

26 (7) "Eligible brownfield project" means the foreclosure,
27 investigation, assessment, remediation and development of a
28 brownfield undertaken pursuant to this subsection and subsections (b)
29 to (i), inclusive, of this section;

30 (8) "Project area" means the area within which a brownfield
31 development project is located;

32 (9) "Real property" means land, buildings and other structures and
33 improvements thereto, subterranean or subsurface rights, any and all
34 easements, air rights and franchises of any kind or nature; and

35 (10) "State" means the state of Connecticut.

36 (b) Subject to the availability of funds, the Commissioner of

37 Economic and Community Development may, in consultation with the
38 Commissioner of Environmental Protection, provide financial
39 assistance pursuant to subsections (e) and (f) of this section in support
40 of eligible brownfield projects, as defined in subdivision (7) of
41 subsection (a) of this section.

42 (c) An eligible applicant, as defined in subdivision (4) of subsection
43 (a) of this section, shall submit an application for financial assistance to
44 the Commissioner of Economic and Community Development on
45 forms provided by said commissioner and with such information said
46 commissioner deems necessary, including, but not limited to: (1) A
47 description of the proposed project; (2) an explanation of the expected
48 benefits of the project in relation to the purposes of subsections (a) to
49 (i), inclusive, of this section; (3) information concerning the financial
50 and technical capacity of the eligible applicant to undertake the
51 proposed project; (4) a project budget; (5) a description of the condition
52 of the property involved including the results of any environmental
53 assessment of the property; and (6) the names of any persons known to
54 be liable for the remediation of the property.

55 (d) The commissioner may approve, reject or modify any
56 application properly submitted. In reviewing an application and
57 determining the type and amount of financial assistance, if any, to be
58 provided, the commissioner shall consider the following criteria: (1)
59 The availability of funds; (2) the estimated costs of assessing and
60 remediating the site, if known; (3) the relative economic condition of
61 the municipality; (4) the relative need of the eligible project for
62 financial assistance; (5) the degree to which financial assistance is
63 necessary as an inducement to the eligible applicant to undertake the
64 project; (6) the public health and environmental benefits of the project;
65 (7) relative economic benefits of the project to the municipality, the
66 region and the state, including, but not limited to, the extent to which
67 the project will likely result in a contribution to the municipality's tax
68 base and the retention and creation of jobs; (8) the time frame in which
69 the contamination occurred; (9) the relationship of the applicant to the
70 person or entity that caused the contamination; (10) the length of time

71 the property has been abandoned; (11) the taxes owed and the
72 projected revenues that may be restored to the community; (12) the
73 type of financial assistance requested pursuant to this section; and
74 [(10)] (13) such other criteria as the commissioner may establish
75 consistent with the purposes of subsection (a) to [(i)] (k), inclusive, of
76 this section.

77 (e) (1) There is established a remedial action and redevelopment
78 municipal grant program to be administered by the Department of
79 Economic and Community Development for the purpose of providing
80 financial assistance in the form of grants to eligible applicants. Eligible
81 applicants may use grant funds for any development project, including
82 manufacturing, retail, residential, municipal, educational, parks,
83 community centers and mixed-use development, and the project's
84 associated costs, including (A) soil, groundwater and infrastructure
85 investigation, (B) assessment, (C) remediation, (D) abatement, (E)
86 hazardous materials or waste disposal, (F) long-term groundwater or
87 natural attenuation monitoring, (G) environmental land use
88 restrictions, (H) attorneys' fees, (I) planning, engineering and
89 environmental consulting, and (J) building and structural issues,
90 including demolition, asbestos abatement, polychlorinated biphenyls
91 removal, contaminated wood or paint removal, and other
92 infrastructure remedial activities.

93 (2) The Commissioner of Economic and Community Development
94 shall award grants on a competitive basis, based at a minimum on an
95 annual request for applications, the first of which shall be issued on
96 October 1, 2008, and the following to be issued on June first each year,
97 with awards being made by the following January first. The
98 commissioner, at the commissioner's discretion, may increase the
99 frequency of requests for applications and awards depending upon the
100 number of applicants and the availability of funding.

101 (3) A grant awarded pursuant to this section shall not exceed four
102 million dollars. If the eligible costs exceed four million dollars, the
103 commissioner may request and seek funding through other state

104 programs.

105 (4) If the eligible applicant develops and sells the property, such
106 applicant shall return any money received pursuant to this subsection,
107 minus twenty per cent, which such eligible applicant shall retain to
108 cover costs of oversight, administration, development and, if
109 applicable, lost tax revenue.

110 (5) Recipients of grants awarded pursuant to this subsection shall be
111 immune from liability to the extent provided in subsection (a) of
112 section 32-9ee.

113 (6) The eligible applicant may make low-interest loans to a
114 redeveloper, if the future reuse is known and an agreement with the
115 redeveloper is in place and the private party is a coapplicant. Loan
116 principal and interest payments shall be returned, minus twenty per
117 cent of the principal, which the eligible applicant shall retain. If the
118 eligible applicant provides a loan, such loan may be secured by a state
119 or municipal lien on the property.

120 (7) Any grant recipients that provide a loan pursuant to subdivision
121 (6) of this subsection shall enter a voluntary program with the
122 Commissioner of Environmental Protection for brownfield
123 remediation.

124 (8) The eligible applicant may acquire and convey its interest in the
125 property without such recipient or the subsequent purchaser incurring
126 liability, including any such liability incurred pursuant to section 22a-
127 134a, provided the property was remediated in accordance with
128 applicable state standards.

129 (f) (1) The Department of Economic and Community Development
130 shall develop a targeted brownfield development loan program to
131 provide financial assistance in the form of low-interest loans to
132 potential brownfield purchasers who have no direct or related liability
133 for the site conditions and existing property owners who (A) are
134 currently in good standing and otherwise compliant with the

135 Department of Environmental Protection's regulatory programs, (B)
136 demonstrate an inability to fund the investigation and clean-up
137 themselves, and (C) cannot retain or expand jobs due to the costs
138 associated with the investigating and remediating of the
139 contamination.

140 (2) The commissioner shall provide low-interest loans to purchasers
141 or existing property owners pursuant to this section who seek to
142 develop property for purposes of retaining or expanding jobs in the
143 state or for developing housing to serve the needs of first-time home
144 buyers. Loans shall be available to manufacturing, retail, residential or
145 mixed-use developments, expansions or reuses. The commissioner
146 shall provide loans based upon project merit and viability, the
147 economic and community development opportunity, municipal
148 support, contribution to the community's tax base, number of jobs,
149 past experience of the applicant, compliance history and ability to pay.

150 (3) Any loan recipient who is a brownfields purchaser and who (A)
151 receives a loan in excess of thirty thousand dollars, or (B) uses loan
152 proceeds to perform a Phase II environmental investigation, shall be
153 subject to section 22a-134a or shall enter a voluntary program with the
154 Department of Environmental Protection. Any loan recipient who is an
155 existing property owner shall enter a voluntary program with the
156 Department of Environmental Protection.

157 (4) Loans made pursuant to this subsection shall have such terms
158 and conditions and shall be subject to such eligibility, loan approval
159 and criteria, as determined by the commissioner. Such conditions shall
160 include, but not be limited to, performance requirements and
161 commitments to maintain or retain jobs. Loan repayment shall coincide
162 with the restoration of the site to a productive use or the completion of
163 the expansion. Such loans shall be for a period not to exceed twenty
164 years.

165 (5) If the property is sold before loan repayment, the loan is
166 immediately payable, with interest, unless the commissioner agrees

167 otherwise.

168 (6) Loans made pursuant to this subsection may be used for any
169 purpose, including the present or past costs of investigation,
170 assessment, remediation, abatement, hazardous materials or waste
171 disposal, long-term groundwater or natural attenuation monitoring,
172 costs associated with an environmental land use restriction, attorneys'
173 fees, planning, engineering and environmental consulting costs, and
174 building and structural issues, including demolition, asbestos
175 abatement, polychlorinated biphenyls removal, contaminated wood or
176 paint removal, and other infrastructure remedial activities.

177 (7) For any loan made pursuant to this subsection that is greater
178 than fifty thousand dollars, the applicant shall submit a redevelopment
179 plan that describes how the property will be used or reused for
180 commercial, industrial or mixed-use development and how it will
181 result in jobs and private investment in the community. For any
182 residential development loan pursuant to this subsection, the
183 developer shall agree that the development will provide the housing
184 needs reasonable and appropriate for first-time home buyers or recent
185 college graduates looking to remain in this state.

186 (8) The loan program established pursuant to this subsection shall
187 be available to all qualified new and existing property owners.
188 Recipients who use loans for commercial, industrial or mixed-use
189 development shall agree to retain or add jobs, during the term of the
190 loan, unless otherwise agreed to by the Department of Economic and
191 Community Development, the Connecticut Development Authority
192 and the Connecticut Brownfield Redevelopment Authority. The
193 residential developer shall agree to retire the loan upon sale of the
194 units unless the development will be apartments.

195 (9) Each loan recipient pursuant to this subsection may be eligible
196 for up to two million dollars per year for up to two years, subject to
197 agency underwriting and reasonable and customary requirements to
198 assure performance. If additional funds are needed, the Commissioner

199 of Economic and Community Development may recommend that the
200 project be funded through the State Bond Commission.

201 [(e)] (g) The Commissioner of Economic and Community
202 Development shall approve applications submitted in accordance with
203 subsection (c) of this section before awarding any financial assistance
204 to an eligible applicant or purchasing any participation interest in a
205 loan made by the Connecticut Development Authority for the benefit
206 of an eligible applicant. Notwithstanding any other provision of this
207 section, if the applicant's request for financial assistance involves the
208 department purchasing a participation interest in a loan made by the
209 Connecticut Development Authority, such authority may submit such
210 application and other information as is required of eligible applicants
211 under subsection (c) of this section on behalf of such eligible applicant
212 and no further application shall be required of such eligible applicant.
213 No financial assistance shall exceed fifty per cent of the total project
214 cost, provided in the case of (1) planning or site evaluation projects,
215 and (2) financial assistance to any project in a targeted investment
216 community, such assistance shall not exceed ninety per cent of the
217 project cost. Upon approval of the commissioner, a nonstate share of
218 the total project cost, if any, may be satisfied entirely or partially from
219 noncash contributions, including contributions of real property, from
220 private sources or, to the extent permitted by federal law, from moneys
221 received by the municipality under any federal grant program.

222 [(f)] (h) Financial assistance may be made available for (1) site
223 investigation and assessment, (2) planning and engineering, including,
224 but not limited to, the reasonable cost of environmental consultants,
225 laboratory analysis, investigatory and remedial contractors, architects,
226 attorneys' fees, feasibility studies, appraisals, market studies and
227 related activities, (3) the acquisition of real property, provided
228 financial assistance for such acquisition shall not exceed fair market
229 value as appraised as if clean, (4) the construction of site and
230 infrastructure improvements related to the site remediation, (5)
231 demolition, asbestos abatement, hazardous waste removal, PCB
232 removal and related infrastructure remedial activities, (6) remediation,

233 groundwater monitoring, including, but not limited to, natural
234 attenuation groundwater monitoring and costs associated with filing
235 an environmental land use restriction, (7) environmental insurance,
236 and (8) other reasonable expenses the commissioner determines are
237 necessary or appropriate for the initiation, implementation and
238 completion of the project. The department may purchase participation
239 interests in loans made by the Connecticut Development Authority for
240 the foregoing purposes.

241 ~~[(g)]~~ (i) The commissioner may establish the terms and conditions of
242 any financial assistance provided pursuant to subsections (a) to ~~[(i)]~~
243 ~~(k)~~, inclusive, of this section. The commissioner may make any
244 stipulation in connection with an offer of financial assistance the
245 commissioner deems necessary to implement the policies and
246 purposes of such sections, including, but not limited to the following:
247 (1) Providing assurances that the eligible applicant will discharge its
248 obligations in connection with the project; and (2) requiring that the
249 eligible applicant provide the department with appropriate security for
250 such financial assistance, including, but not limited to, a letter of credit,
251 a lien on real property or a security interest in goods, equipment,
252 inventory or other property of any kind.

253 ~~[(h)]~~ (j) The commissioner may use any available funds for financial
254 assistance under the provisions of subsections (a) to ~~[(i)]~~ ~~(k)~~, inclusive,
255 of this section.

256 ~~[(i)]~~ (k) Whenever funds are used pursuant to subsections (a) to ~~[(i)]~~
257 ~~(k)~~, inclusive, of this section for purposes of environmental
258 assessments or remediation of a brownfield, the Commissioner of
259 Environmental Protection may seek reimbursement of the costs and
260 expenses incurred by requesting the Attorney General to bring a civil
261 action to recover such costs and expenses from any party responsible
262 for such pollution provided no such action shall be brought separately
263 from any action to recover costs and expenses incurred by the
264 Commissioner of Environmental Protection in pursuing action to
265 contain, remove or mitigate any pollution on such site. The costs and

266 expenses recovered may include, but shall not be limited to, (1) the
267 actual cost of identifying, evaluating, planning for and undertaking the
268 remediation of the site; (2) any administrative costs not exceeding ten
269 per cent of the actual costs; (3) the costs of recovering the
270 reimbursement; and (4) interest on the actual costs at a rate of ten per
271 cent a year from the date such expenses were paid. The defendant in
272 any civil action brought pursuant to this subsection shall have no
273 cause of action or claim for contribution against any person with
274 whom the Commissioner of Environmental Protection has entered into
275 a covenant not to sue pursuant to sections 22a-133aa of the 2008
276 supplement to the general statutes and 22a-133bb with respect to
277 pollution on or emanating from the property that is the subject of said
278 civil action. Funds recovered pursuant to this section shall be
279 deposited in the brownfield remediation and development account
280 established pursuant to subsections [(j)] (l) to [(m)] (o), inclusive, of
281 this section. The provisions of this subsection shall be in addition to
282 any other remedies provided by law.

283 [(j)] (l) There is established a separate nonlapsing account within the
284 General Fund to be known as the "brownfield remediation and
285 development account". There shall be deposited in the account: (1) The
286 proceeds of bonds issued by the state for deposit into said account and
287 used in accordance with this section; (2) repayments of assistance
288 provided pursuant to subsection (c) of section 22a-133u of the 2008
289 supplement to the general statutes; (3) interest or other income earned
290 on the investment of moneys in the account; (4) funds recovered
291 pursuant to subsection (i) of this section; and (5) all funds required by
292 law to be deposited in the account. Repayment of principal and
293 interest on loans made pursuant to subsections (a) to [(i)] (k), inclusive,
294 of this section shall be credited to such account and shall become part
295 of the assets of the account. Any balance remaining in such account at
296 the end of any fiscal year shall be carried forward in the account for
297 the fiscal year next succeeding.

298 [(k)] (m) All moneys received in consideration of financial
299 assistance, including payments of principal and interest on any loans,

300 shall be credited to the account. At the discretion of the Commissioner
301 of Economic and Community Development and subject to the
302 approval of the Secretary of the Office of Policy and Management, any
303 federal, private or other moneys received by the state in connection
304 with projects undertaken pursuant to subsections (a) to [(i)] (k),
305 inclusive, of this section shall be credited to the assets of the account.

306 [(l)] (n) Notwithstanding any provision of law, proceeds from the
307 sale of bonds available pursuant to subdivision (1) of subsection (b) of
308 section 4-66c of the 2008 supplement to the general statutes may, with
309 the approval of the Governor and the State Bond Commission, be used
310 to capitalize the brownfield remediation and development account
311 created by subsections [(j)] (l) to [(m)] (o), inclusive, of this section.

312 [(m)] (o) The commissioner may, with the approval of the Secretary
313 of the Office of Policy and Management, provide financial assistance
314 pursuant to subsections (a) to [(i)] (k), inclusive, of this section from the
315 account established under subsection [(j)] (l) to [(m)] (o), inclusive, of
316 this section.

317 Sec. 502. Section 22a-133dd of the general statutes is repealed and
318 the following is substituted in lieu thereof (*Effective from passage*):

319 (a) Any licensed environmental professional employed or retained
320 by a municipality may access and enter, without the municipality or
321 licensed environmental professional incurring any liability from the
322 state or any other person for such entry, assessment or investigation or
323 for any condition encountered, upon any property within such
324 municipality for the purpose of performing an environmental site
325 assessment or investigation if: (1) The owner of such property cannot
326 be located; [or] (2) such property is encumbered by a lien for taxes due
327 such municipality; [or] (3) upon a filing of a notice of eminent domain;
328 (4) the municipality's legislative body finds that such investigation is in
329 the public interest to determine if the property is underutilized or
330 should be included in any undertaking of development,
331 redevelopment or remediation pursuant to chapter 130, 132, 445 or

332 5881; or (5) any official of the municipality reasonably finds such
333 investigation necessary to determine if such property presents a risk to
334 the safety, health or welfare of the public or a risk to the environment.
335 The municipality shall give at least ten days' notice of such entry
336 before the first such entry by first class mail to the property owner's
337 last known address of record. Immunity pursuant to this section
338 extends only to contamination or pollution not created, established or
339 otherwise attributed to the municipality.

340 (b) The owner of the property may object to such access and entry
341 by the municipality by filing an action in the Superior Court, provided
342 any objection be limited to the owner affirmatively representing that it
343 is diligently investigating the site in a timely manner and that any
344 municipal taxes owed will be paid in full.

345 Sec. 503. Section 11 of public act 06-184, as amended by section 15 of
346 public act 07-233, is amended to read as follows (*Effective July 1, 2008*):

347 (a) There is established a task force to study strategies for providing
348 long-term solutions for the state's brownfields.

349 (b) The task force shall consist of the following eleven members,
350 each of whom shall have expertise in brownfield redevelopment either
351 in environmental law, engineering, finance, development, consulting,
352 insurance or other relevant experience:

353 (1) Two appointed by the Governor;

354 (2) One appointed by the president pro tempore of the Senate;

355 (3) One appointed by the speaker of the House of Representatives;

356 (4) One appointed by the majority leader of the Senate;

357 (5) One appointed by the majority leader of the House of
358 Representatives;

359 (6) One appointed by the minority leader of the Senate;

360 (7) One appointed by the minority leader of the House of
361 Representatives;

362 (8) The Commissioner of Economic and Community Development,
363 or the commissioner's designee;

364 (9) The Commissioner of Environmental Protection, or the
365 commissioner's designee; and

366 (10) The Secretary of the Office of Policy and Management, or the
367 secretary's designee.

368 (c) Any member of the task force appointed under subdivision (1),
369 (2), (3), (4), (5), (6) or (7) of subsection (b) of this section may be a
370 member of the General Assembly. At least one member shall be an
371 employee.

372 (d) All appointments to the task force shall be made no later than
373 thirty days after the effective date of this section. Any vacancy shall be
374 filled by the appointing authority.

375 (e) The speaker of the House of Representatives and the president
376 pro tempore of the Senate shall select the chairpersons of the task force
377 [.] from among the members of the task force. Such chairpersons shall
378 schedule the first meeting of the task force, which shall be held no later
379 than sixty days after the effective date of this section.

380 (f) Not later than [February 1, 2008] January 1, 2009, the task force
381 shall submit a report on its findings and recommendations to the joint
382 standing committees of the General Assembly having cognizance of
383 matters relating to environment and commerce, in accordance with the
384 provisions of section 11-4a of the general statutes. The task force shall
385 terminate on the date that it submits such report or [February 1, 2008]
386 January 1, 2009, whichever is later."